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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
10/032,802	12/21/2001	James A. Brady	9386,17711-B	6845

7590 10/13/2004
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EXAMINER

MACHUGA, JOSEPH S

ART UNIT	PAPER NUMBER
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3762

DATE MAILED: 10/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/032,802

Applicant(s)

BRADY ET AL.

Examiner

Joseph S. Machuga

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 10-13, 23-26 and 34-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claims 10-13, 23-26 and 34-37 are indefinite. The claims 10-13 and 23-26 recite both article limitations and method of making limitations and claims 34-37 recite method of collecting and method of making limitations making the exact scope of the claims unclear.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6, 14-19 and 27-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon #5298016 in view of Okarma et al #5730713.

Gordon discloses a blood processing system. The device includes a siphon 12, blood storage container 16 and filters 18, 22. The filters remove waste components of the blood. Not disclosed by this reference is the filter especially adapted to remove cytokines from the blood component.

Okarma et al teach removing toxins such as cytokines from a patient's blood by means of a filtration device to prevent septic shock syndrome.

Given Okarma et al's teaching it would have been obvious to one of ordinary skill in the art to adapt the filtration system in Gordon's device to filter out cytokines to prevent septic shock syndrome.

3. Claims 7-12, 20-25 and 33-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon in view of Okarma et al as applied to claims 1-6, 14-19 and 27-32 above, and further in view of Strom et al #6238795.

4. Strom et al. teach using divinylbenzene monomer, cross linked polystyrene, 2-hydroxyethyl methacrylate and aromatic divinyl compounds as recited in the claims in a blood filtration device to remove toxins such as Beta 2 micro globulins and the like.

Given this teaching, it would have been obvious to one of ordinary skill in the art to use those components in the filtration device of the proposed combination to remove toxins.

5. Claims 13, 26 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon in view of Okarma et al and Strom et al as applied to claims 7-12, 20-25 and 33-36 above, and further in view of Braverman et al #6416487.

6. Braverman et al teach forming filter particles from the polymerization of aromatic divinyl compound in the presence of a porogen. This improves its filtering properties.

7. Given this teaching it would have been obvious to form the filtering particles of the proposed combination from the polymerization of an aromatic divinyl compound in the presence of porogen to improve the particles filtering properties.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph S. Machuga whose telephone number is 703-305-6184. The examiner can normally be reached on Monday-Friday; 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela D Sykes can be reached on 703-308-5181. The fax phone number for the organization where this application or proceeding is assigned is 703-306-4520.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Application/Control Number: 10/032,802
Art Unit: 3762

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Joseph S. Machuga
Examiner
Art Unit 3762



ANGELA D. SYKES
SUPERVISORY PATENT EXAMINER
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